



County of Los Angeles CHIEF EXECUTIVE OFFICE

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August 14, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**CHIEF EXECUTIVE OFFICE: ORDINANCE AMENDING LOCAL
SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

Approve an Ordinance amending Title 2, Chapter 2.204. of the Los Angeles County Code, Local Business Enterprise Preference Program, to ensure that the program preference is not in conflict with the uniform administrative requirements for grants and cooperative agreements and sub-awards to State, local and tribal governments under the Code of Federal Regulations (CFR), also known as the "grants management common rule."

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

In consultation with County Counsel, it has been determined that for certain federally-funded County solicitations, the County's existing Small Business Enterprise Preference Ordinance is in conflict with the uniform administrative requirements for grants and cooperative agreements and sub-awards to State and local governments under the CFR, also known as the "grants management common rule." The rule requires grantees and sub-grantees to *conduct procurements in a manner that prohibits the use of statutory or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those instances where applicable Federal statutes expressly mandate or encourage geographical preferences.*

The County's Local Small Business Enterprise (SBE) Preference Program is a race and gender-neutral program designed to enhance purchasing and contracting opportunities

for local small businesses within the County. The program's priorities were developed to promote and foster inclusiveness and economic development, as well as ongoing evaluation to assure all businesses including local small businesses, are provided equal opportunities in the County's purchasing and contracting activities (County Code Section 2.204.020).

The Local SBE Preference Program defines a local small business enterprise as a business having its principal office in the County for at least one year and as being certified as a small business by the State of California (County Code Section 2.204.030). It requires that the County provide a price or scoring preference to bids and proposals from qualified Local SBE's (County Code Section 2.204.060).

A vast amount of County procurements for goods and services are conducted by or on behalf of the County's social services departments which are primarily funded by Federal and State dollars and subject to the Federal restriction on geographical preferences. Enforcement of the Federal restriction would result in a significant impact on participation in, and or viability of, the Local SBE Program. In other words, the County would be required to restrict the program to those departments and programs which are not federally-funded if the Ordinance is not amended as recommended.

Our recommendation provides an alternative program preference definition for solicitations subject to the Federal restriction on geographical preferences. The recommended action amends the Local SBE Preference Program Ordinance to add and revise sections in the existing Ordinance to specifically address procurement practices for County departments, programs, and grants funded by the Federal government. For such procurements, the Local SBE preference would be available to:

- A business which is certified as small by the Federal Small Business Administration (SBA) or which is registered as small on the Federal Central Contractor Registration data base.

By unanimous vote taken at its meeting of January 10, 2007, the Los Angeles County Small Business Commission supported this initiative to amend the existing Ordinance and expand the Local SBE Preference Program to include SBA-certified vendors for federally-funded programs and grants, without restriction as to geographical location.

Implementation of Strategic Plan Goals

Approval of the amended Ordinance will further the County's Strategic Plan Goal of Organizational Effectiveness by ensuring that service delivery systems are efficient, effective, and goal-oriented.

FISCAL IMPACT/FINANCING

There is no significant fiscal impact from this action.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This Ordinance amendment has been approved as to form by County Counsel.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Ordinance amendment will enhance existing contracting and purchasing policies and procedures while providing the appropriate guidance and direction necessary to reach decisions that are consistent with your Board's direction.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:LN:MKZ
MLM:VLA:pg

Attachment

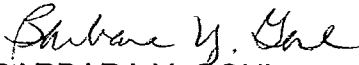
- c: All Department Heads
Administrative Deputies (via electronic mail)
Contract Manager's Network (via electronic mail)
Small Business Commission

ANALYSIS

This ordinance amends Title 2 – Administration, of the Los Angeles County Code by:

- Amending the local small business preference regarding contracts and purchases funded by the federal government in order to comply with applicable federal procurement regulations.

RAYMOND G. FORTNER, JR.
County Counsel

By 
BARBARA Y. GOUL
Principal Deputy County Counsel
Government Services Division

BYG:plp

3/22/07 (requested)

6/6/07 (revised)

ORDINANCE NO. _____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the local small business enterprise preference program.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.204.030 is hereby amended to read as follows:

2.204.030 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as having the following meaning:

- A. "County" shall mean the county of Los Angeles or any public entities for which the board of supervisors is the governing body.
- B. "Department" shall mean the county department, entity, or organization responsible for the solicitation.
- C. "Local small business enterprise" shall mean:
 - 1. ~~A business having its principal office located in Los Angeles County for at least one year; and~~ A business which is certified by the State of California as a small business and has had its principal office located in Los Angeles County for at least one year; or
 - 2. ~~A business certified as a small business by the state of California~~ In federally funded County solicitations subject to the federal restriction on geographical preferences, a business which is certified as small by the SBA or which is registered as small on the federal Central Contractor Registration data base.
- D. ~~"Solicitation" shall mean the county's process to obtain bids or proposals for goods and services~~ "SBA" shall mean the federal Small Business Administration.

E. "Solicitation" shall mean the county's process to obtain bids or proposals for goods and services.

SECTION 2. Section 2.204.051 is hereby added to read as follows:

2.204.051 Certification as a small business enterprise in certain federally funded county solicitations.

Where geographic preferences are precluded by federal funding restrictions, County departments shall be responsible for verifying that a small business enterprise is certified by the SBA or is registered as small on the federal Central Contractor Registration data base.

SECTION 3. Section 2.204.080 is hereby amended to read as follows:

2.204.080 Violations and sanctions.

A. The information furnished by each solicitation respondent requesting a local small business enterprise preference shall be under penalty of perjury.

B. No person or business shall knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a local small business enterprise for the purpose of this chapter.

C. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a county official or employee for the purpose of influencing the certification or denial of certification of any entity as a local small business enterprise.

D. A business which has obtained county certification as a local small business enterprise by reason of having furnished incorrect supporting information or by

reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

1. Pay to the county any difference between the contract amount and what the county's costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision 1 of subsection D of this section, be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved; and
3. Be subject to the provisions of Chapter 2.202 of the county code (Determinations of Contractor Non-responsibility and Contractor Debarment).

E. The above penalties shall also apply to any business that has previously obtained proper certification, however, as a result of a change in their status would no longer be eligible for certification, and fails to notify the state and OAAC of this information prior to responding to a solicitation or accepting a contract award.

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